

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

Case No. 1:12-CR-132

v.

HON. ROBERT HOLMES BELL

FRANCISCO MARTINEZ, JR.,

Defendant.

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**MEMORANDUM OPINION AND ORDER**

Defendant Francisco Martinez, Jr. has filed a motion for modification or reduction of sentence (ECF No. 1442) pursuant to 18 U.S.C. §3582(c)(2) on the basis of Amendment 782 of the United States Sentencing Guidelines, made retroactive by the Sentencing Commission.

Section 3582(c)(2) permits a court to reduce the term of imprisonment of a defendant who has been sentenced based on a sentencing range that has subsequently been lowered by the Sentencing Commission. 18 U.S.C. § 3582(c)(2). Amendment 782 of the United States Sentencing Guidelines reduced by two levels the offense levels assigned to the quantities that trigger the statutory mandatory minimum penalties in U.S.S.G. §§ 2D1.1 and 2D1.11. These modifications were made retroactive effective November 1, 2014. U.S.S.G. § 1B1.10.

However, because the Court varied and sentenced as if Defendant had a total offense level of 30 to reflect the proposed changes under Amendment 782, the Probation Office has found Defendant ineligible for a further reduction in sentence under Guideline Amendment 782. No objections have been filed to the Report of Eligibility within the time frame prescribed.

Therefore, IT IS HEREBY ORDERED that Defendant's motion for modification of sentence

(ECF No. 1442) pursuant to 18 U.S.C. § 3582(c)(2) is DENIED.

DATED: February 2, 2015

/s/ Robert Holmes Bell

ROBERT HOLMES BELL  
UNITED STATES DISTRICT JUDGE